IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 109 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BHARATKUMAR HARAKHCHAND AMIN

Versus

STATE OF GUJARAT

Appearance:

MR BG JANI for Petitioner

Mr K G Sheth, APP for Respondent No. 1

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 11/04/2001

ORAL JUDGEMENT

The present Revision Application has been preferred by the petitioner above named under Section 397 read with section 401 and 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code') against an order dated 7.3.1001 recorded by the learned Addl.Sessions

Judge, Mehsana at Patan in Criminal Revision Application No.53/2000. The facts leading to this Revision may be briefly stated as follows:

2. A FIR was filed on 31.1.1999 by the Supply Inspector, Patan and Mamlatdar before P.S.I., Harij against one Dilipkumar Viraji and others for offence punishable under sections 186, 143, 504 and 506(2) of Indian Penal Code.

3. The present petitioner Bharatkumar Amin submitted an application before learned JMFC at Harij requesting the said court to release the muddamal articles pending hearing and disposal of the criminal case. The learned Magistrate dismissed the said application of the present petitioner.

4. The present petitioner thereafter preferred Criminal Revision Application No.53/2000 wherein the impugned order was passed for the release of muddamal articles on the conditions stated in the aforesaid order. The matter was brought here in Criminal Revision Application no.286/2000 by the Mamlatdar, Harij wherein an order was passed on 11.12.2000 issuing certain directions contained in the said order placed at page 27.

5. Thereafter the learned Addl.Sessions Judge, Mehsala at Patan passed an order dated 7.3.2001 after rehearing the said Revision Application No.53/2000 under which the learned Addl. Sessions Judge directed that out of the muddamal seized by the police station, 73 tins of castor oil shall be returned by the present petitioner and the petitioner should deposit the value of 46 empty tins to the tune of Rs.960 being the value of the pressing machine, pending hearing and disposal of the case. In other words, the petitioner was required to return 73 oil tins containing castor oil. However, he was directed to get back 46 empty tins on deposit of Rs.960/- for the value thereof. He was also to get the machine on condition to deposit the amount paybale and the amount of the value of the pressing machine.

6. Feeling aggrieved by the said judgment and order of the learned Addl.Sessions Judge, the petitioner has preferred this revision Application before this Court. It has mainly been contended that the judgment and order of the learned Addl.Sessions Judge are illegal and erroneous and deserve to be set aside. The petitioner, therefore, prays that the judgment and order of the learned Addl.Sessions Judge be quashed and set aside and appropriate order be passed in this Revision.

7. On receiving the Revision Application, rule was issued and Mr K G Sheth, learned APP appears on behalf of the State. I have heard the learned Advocates for the parties and have perused the papers. It appears from the record that at the time of issuing rule, interim order was passed by this court on 21.3.2001. The material part of the order may be reproduced for ready reference as follows:

> "In terms of para 19(B) 73 tins of castor oil only. For rest of the articles, interim relief has not been granted. Ld. Addl.Sessions Judge, Mehsana at Patan is at liberty to hear Criminal Revision Application No.53/2000 in compliance of the order of this Court dated 11.12.2000. Direct Service permitted."

8. So far as the relief contained in para 19(B) is concerned, it would be worthwhile to refer the same for ready reference hereinbelow:

> "Pending hearing, admission and final disposal of this petition, Your Lordships may be pleased to stay the operation and implementation of the impugned order dated 7.3.2001 passed by the learned Addl.Sessions Judge, Patan in Criminal Revision Application No.53/2000."

The meaning of the above interim order is clear that the learned Addl.Sessions Judge has directed the petitioner to return the oil tins 73 in numbers whereas under the interim order there is stay against the operation and implementation of the said order of the learned Addl.Sessions Judge dated 7.3.2001. During the course of the hearing, it is found that when the learned Addl.Sessions Judge has been directed to rehear the matter afresh, it would be in the fitness of things that the ad-interim order passed by this court is made final order so far as the present Revision is concerned.

9. In the aforesaid view of the matter, this revision application is partly allowed and the interim order passed by this court dated 21.3.2001 is treated to be final order and the revision is ordered to be disposed of in terms of the order passed by this court earlier on 21.3.2001. Rule made absolute accordingly.

11.4.2001 [D P Buch, J.]
msp